IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24617 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDULAL MARGABHAI PATEL - Petitioner
Versus
TORRENT AEC LTD. & 1 - Respondents

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Appearance :
MR SK PATEL for Petitioner.
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 08/01/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The endorsement on the board indicates that both the respondents are duly served with notice for final disposal of the petition. However, none of the respondents has appeared through its Lawyer nor through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the petition, upon the respondents. Having regards to the facts of the case, the petition is taken up for final disposal today.

2. By filing the instant petition under Article 226 of the Constitution, the petitioner has prayed to direct the respondent No.1 i.e. The Torrent A.E.C.Ltd., to supply electricity connection to Bungalow No.3 belonging to him, which is situated at Chandkheda, without insisting for production of Building Use

Permission. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad Urban Development Authority to grant B.U.Permission to him in respect of the Bungalow situated at Chandkheda.

3. Revenue Survey No.621/1/2 forming part of Town Planning Scheme No.22 (Chandkheda), Taluka & District : Gandhinagar, belonged to Patel Bipinbhai Dahyabhai Patel and others. Mr.Bipinbhai Patel and others were desirous of developing the land belonging to them. Therefore, they applied to Ahmedabad Urban Development Authority to grant development permission. Accordingly, the development permission was granted on October 14, 2003, which is quite evident from the contents of document produced at Annexure-B to the petition. The case of the petitioner is that he purchased Plot No.3 admeasuring 1837 sq.mts. from the original owners by a deed dated March 25, 2005. A copy of the deed is produced by the petitioner at

Annexure-A to the petition. It is also the case of the petitioner that he entered into an agreement for construction of one Bungalow on the said plot with Uma Corporation and accordingly, the Bungalow was constructed. After construction of the Bungalow was over, it was the duty of the developer and/or the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electricity connection to the residential unit constructed by him. However, without obtaining Building Use Permission, the developer applied to the respondent No.1 for supply of 8 electricity connections to the residential Units, which included the Bungalow of the petitioner also, constructed by him. The record shows that the said request was turned down by the respondent No.1, which is quite evident from the contents of letter dated November 20, 2006 addressed by General Manager of the respondent No.1 to Bipinbhai Dahyabhai Patel. A copy of the said letter is produced by the petitioner at Annexure-

C to the petition. By the said communication, Bipinbhai Dahyabhai Patel is called upon to produce Building Use Permission to enable the respondent No.1 to grant supply of electricity connection to the residential Unit constructed by him. Under the circumstances, the petitioner, who is owner of the bungalow constructed on Plot No.3, has filed the instant petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing on November 29, 2006 and after hearing the learned Counsel for the petitioner, notice for final disposal of the petition was issued. As noticed earlier, both the respondents are duly served, but, none of them has appeared before the Court nor contested the petition.

5. This Court has heard Mr. S.K.Patel, learned Counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of

the opinion that interest of justice would be served if the following directions are issued:

(1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to the residential unit constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to residential unit constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to the residential unit constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential Unit constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to residential unit constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the residential Unit constructed by the petitioner.

(7) The petitioner shall file an Undertaking

before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to residential unit constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

[J.M.PANCHAL,J.]

[SMT.ABHILASHA KUMARI,J.]

(patel)